

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	
)	
vs.)	Criminal No. 03-00245
)	
FREDERICK H. BANKS,)	
Defendant.)	

MEMORANDUM ORDER

This matter is before the Court on a “Notice of Appeal and Motion for Reconsideration (docs 417-2, 418, 419-2, 420)” [427], filed by Defendant Frederick H. Banks (“Defendant”) on December 16, 2008, in which Defendant moves the Court to reconsider its December 2, 2008 [418] and December 3, 2008 [419] Orders.¹

A court may grant a motion for reconsideration if the moving party shows: (1) an intervening change in the controlling law; (2) the availability of new evidence which was not available when the court issued its order; or (3) the need to correct a clear error of law or fact or to prevent a manifest injustice. *Max's Seafood Café by Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999) (citing *North River Ins. Co. v. Cigna Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)); *see also United States v. Croce*, 355 F. Supp. 2d 774, 775 (E.D. Pa. 2005) (applying the same standard to a motion for reconsideration in a criminal case).

The Court denies Defendant’s Motion for Reconsideration as Defendant has set forth no basis, i.e. new evidence or a clear error of law, for the Court to reconsider the merits of his motions.

Based on the foregoing, and the Court’s reasoning in its December 2, 2008 [418] and December 3, 2008 [420] Orders, Defendant’s “Notice of Appeal and Motion for Reconsideration”

¹ The Court notes that the title of Defendant’s Motion references docket numbers 417-2 and 419-2, however, these docket entries and/or Orders do not exist.

[427] is hereby DENIED to the extent he seeks reconsideration. However, to the extent the instant “motions” seek appeal, this Court takes no further action.

Finally, as the Court has denied this Motion for Reconsideration, Defendant’s related Motion requesting an evidentiary hearing [406] is also DENIED, as moot.

s/ Nora Barry Fischer
Nora Barry Fischer
United States District Judge

Date: December 31, 2008.

cc: All counsel of record including Frederick Banks, *pro se*, No. 05711-068, Unit 2AU, P.O. Box 5000, Yazoo City, MS 39194-5000.